

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

BETTY J. GIUNTINI,

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant.

NOTICE OF REMOVAL

COMES NOW WAL-MART STORES, INC., named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant WAL-MART STORES, INC. in the State Court of Houston County, Georgia, which is within the Macon Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 2022-v-54380. Plaintiff's claims against Defendant include claims of negligence.

2.

Plaintiff filed the Complaint on or about August 5, 2022. Defendant WAL-MART, INC. received service of summons and a copy of the Complaint on August 8, 2022. It was not apparent from the face of the Complaint that the action was removable.

3.

Defendant Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas. Defendant was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter. The principal place of business for Walmart, Inc. is 708 SW 8th Street, Bentonville, AR 72716.

4.

Betty J. Giuntini is a citizen of the State of Georgia.

5.

Complete diversity of citizenship exists between Plaintiff and Defendant.

6.

Plaintiff claims serious bodily injury, pain and suffering, past and future medical expenses as referenced in Plaintiff's Complaint (Exh. A), and seeks in excess of \$75,000 in damages as referenced in Plaintiff's counsel's email to Defendant's counsel dated September 1, 2022 (Exh. B). The amount in

controversy, exclusive of interest and costs, exceeds \$75,000. It was not ascertainable that the amount in controversy exceeded \$75,000 until the email from counsel on September 1, 2022. (Exh. B).

7.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

8.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "A" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Houston County, Georgia for the above-styled case. Defendant is further attaching a copy of Plaintiff's email dated September 1, 2022 as Exhibit "B".

9.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

10.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

11.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Houston, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES, INC. prays that the above-captioned lawsuit be removed to the United States District Court for the Middle District of Georgia, Macon Division.

McLAIN & MERRITT, P.C.

/s/ Ernest L. Beaton, IV
Ernest L. Beaton, IV
Georgia Bar No. 213044
Attorneys for Defendant

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 266-9171
ebeaton@mmatllaw.com

CERTIFICATE OF SERVICE

This is to certify that on September 7, 2022, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Ernest L. Beaton, IV
Ernest L. Beaton, IV
Georgia State Bar No. 213044
Attorneys for Defendant

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 266-9171
dcash@mmatllaw.com